

## **REMARKS**

### **Statement of Substance of Interview (37 C.F.R. §1.133(B))**

In response to the Interview Summary mailed February 4, 2009, summarizing the telephonic interview between Examiner Jones and Stephanie A. Barbosa (Applicant's representative), Applicant submits the following as a statement of the substance of the interview.

As indicated in the Interview Summary Records, a telephonic interview was conducted on January 29, 2009. A subsequent telephonic interview was held on February 10, 2009. No exhibits or demonstrations were provided. All pending claims were discussed in view of the following sequence of events.

In the Remarks of the Applicants' October 10, 2008 Response to the July 10, 2008 Non-Final Office Action, the Applicants noted that "Variables R<sup>9</sup> and R<sup>10</sup> have been amended from their scope in claim 10 such that neither can be hydroxy(C<sub>1-5</sub>)alkyl." This statement was re-affirmed later in the response: "As set forth in claim 37, neither R<sup>9</sup> or R<sup>10</sup> can be hydroxy(C<sub>1-5</sub>)alkyl." Due to an inadvertent drafting error, however, the desired amendment was not made to claim 37 and R<sup>9</sup> and R<sup>10</sup> included the hydroxy(C<sub>1-5</sub>)alkyl limitation.

The Office did not consider the Applicants remarks regarding the intended amendment to R<sup>9</sup> and R<sup>10</sup> and made the 35 U.S.C. § 102 rejection set forth in the October 10, 2008 Action final on December 30, 2008. A telephonic interview was granted on January 29, 2009 to discuss whether the error could be addressed. The Examiner and undersigned agreed that a response to the December 30, 2008 Office Action should be filed.

The Applicants submitted an Amendment and Response on February 3, 2009 requesting reconsideration and correction of the inadvertent drafting mistake. During the telephonic interview held on February 10, 2009, the undersigned was advised that the finality of the Office Action would not be withdrawn and that the February 3, 2009 amendment would not be entered.

**DOCKET NO.:** UPDI-0154  
**Application No.:** 10/529,850  
**Office Action Dated:** February 4, 2009

**PATENT**

Date: February 13, 2009

/Stephanie A. Barbosa/  
Stephanie A. Barbosa  
Registration No. 51,430

Woodcock Washburn LLP  
Cira Centre  
2929 Arch Street, 12th Floor  
Philadelphia, PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439